

**ORIGINAL**

michaelsnellple

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**FILED**  
**DISTRICT COURT OF GUAM**

JAN 14 2008

**JEANNE G. QUINATA**  
**Clerk of Court**

Attorneys for the United States of America

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF GUAM**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MICHAEL SNELL, II,

Defendant.

CRIMINAL CASE NO. 07-00110

**PLEA AGREEMENT**

Pursuant to Rule 11(c)(1)(B), the United States and the defendant, MICHAEL SNELL, II, enter into the following plea agreement:

1. The defendant agrees to enter a guilty plea to an Indictment charging him with Drug User in Possession of Firearms, in violation of Title 18, United States Code, Sections 922(g)(3) and 924(a)(2) and 2.

2(a). The defendant, MICHAEL SNELL, II, further agrees to fully and truthfully cooperate with Federal law enforcement agents concerning their investigation of the possession, receipt, and distribution of firearms or ammunition or controlled substances, and related unlawful activities, including the disposition of profits from and assets relating to such activities.

1 Cooperation shall include providing all information known to defendant regarding any criminal  
2 activity, including but not limited to the offenses to which he is pleading guilty. Cooperation  
3 will also include complying with all reasonable instructions from the United States; submitting to  
4 interviews by investigators and attorneys at such reasonable times and places to be determined by  
5 counsel for the United States; producing to the United States all non-privileged documents  
6 (including claimed personal documents) and other materials in the possession, custody or control  
7 of defendant requested by attorneys and agents of the United States; and testifying fully and  
8 truthfully before any grand juries, hearings, trials or any other proceedings where defendant's  
9 testimony is deemed by the United States to be relevant. Defendant understands that such  
10 cooperation shall be provided to any state, territorial, local or federal law enforcement agencies  
11 designated by counsel for the United States. Further, it is understood and agreed that defendant  
12 shall not directly, indirectly, or intentionally disclose anything defendant knows or has done  
13 concerning the United States' investigation to anyone other than defendant's attorney. Defendant  
14 agrees to take no steps directly or indirectly to warn any subject of this investigation that  
15 defendant, a subject or anyone else is being investigated.

16 2(b) The United States will make this cooperation known to the Court prior to the  
17 defendant's sentencing. The defendant further understands that he remains liable and subject to  
18 prosecution for any non-violent Federal or Territorial offenses that he does not fully advise the  
19 United States, or for any material omissions in this regard. In return for this cooperation, the  
20 United States agrees not to prosecute defendant in the District of Guam or the Commonwealth of  
21 the Northern Mariana Islands for any other non-violent Federal offenses which he reveals to  
22 Federal authorities.

23 2( c) This agreement is not contingent in any way upon the outcome of any investigation,  
24 proceeding or subsequent trial. Thus, none of the rights and obligations described above are in  
25 any way dependent upon a grand jury returning an indictment, a jury's verdict at any trial, or the  
26 success of any prosecution.

1           2(d) Except as otherwise herein provided, and in particular in Paragraph 11, the United  
2 States agrees not to prosecute defendant for any other non-violent offenses which were  
3 committed in the District of Guam, the District of the Northern Mariana Islands (CNMI), which  
4 defendant reveals to Federal authorities during his cooperation with the United States. This  
5 agreement is limited to crimes committed by defendant in the Districts of Guam or the CNMI.

6           3. The defendant, MICHAEL SNELL, II, understands and agrees that any and all assets  
7 or portions thereof acquired or obtained by him as a direct or indirect result of illegal receipt,  
8 possession, transportation, or trafficking in firearms or ammunition or controlled substances or  
9 used to facilitate such illegal activity shall be surrendered to the United States or any lawful  
10 agency as may be directed by the Court.

11           4. The defendant, MICHAEL SNELL, II, further agrees to submit to a polygraph  
12 examination by any qualified Federal polygraph examiner if called upon to do so by the  
13 government. The defendant understands that such polygraph examinations may include, but will  
14 not be limited to, his knowledge of or involvement in unlawful firearm or controlled substances  
15 and related activities, his knowledge of others' involvement in such activities, and the  
16 identification of any and all assets and conveyances acquired in whole or in part by the defendant  
17 or others through unlawful firearm activities or the use of such assets or conveyances to further  
18 such unlawful activities. Defendant understands that the government will rely on the polygraph  
19 in assessing whether he has been fully truthful.

20           5(a). The defendant, MICHAEL SNELL, II, understands that the maximum sentence for  
21 the Drug User in Possession of a Firearm is ten years imprisonment, and a \$250,000 fine and a  
22 term of supervised release of three years. Defendant understands that if he violates a condition  
23 of supervised release at any time prior to the expiration of such term, the court may revoke the  
24 term of supervised release, thereby resulting in the additional incarceration of defendant for not  
25 more than two (2) years pursuant to 18 U.S.C. §3583(e)(3).

26           5(b) If defendant cooperates as set forth in Paragraphs 2, 3, and 4, the government will  
27 recommend that defendant receive the minimum term of incarceration legally available under the  
28 applicable statutes and Sentencing Guidelines. If defendant does not fully cooperate as set forth

1 in Paragraphs 2, 3, and 4, the government will recommend a sentence of incarceration within the  
2 applicable statutes and Guidelines range it may deem appropriate.

3 5( c) If the United States believes the defendant has provided "substantial assistance" as  
4 defined by Sentencing Guidelines 5K1.1, the United States will request the court to depart below  
5 the statutory minimum pursuant to Title 18, United States Code §3553(e), and may, as provided  
6 by Sentencing Guidelines 5K1.1, request the court to depart below the applicable guidelines  
7 range, when fixing a sentence for defendant, or may, within one year after sentencing herein,  
8 move the Court to order relief pursuant to Rule 35, Rules of Criminal Procedure to whatever  
9 guidelines range or sentence of incarceration the United States in its sole discretion deems  
10 appropriate. Defendant acknowledges that the United States has made no promise, implied or  
11 otherwise, that defendant will be granted a departure for substantial assistance. Defendant  
12 further acknowledges that no promise of any kind has been made that a motion requesting such  
13 departure will be made except as otherwise provided herein.

14 The United States agrees to consider the totality of the circumstances, including but not  
15 limited to the following factors, in determining whether, in the assessment of the U.S. Attorney,  
16 defendant has provided substantial assistance which would merit a government request for a  
17 departure from the mandatory statutory minimum or the applicable Guidelines sentencing range:

- 18 (1) The United States' evaluation of the significance and usefulness of any assistance  
19 rendered by defendant;
- 20 (2) The truthfulness, completeness, and reliability of any information or testimony  
21 provided by defendant;
- 22 (3) the nature and extent of defendant's assistance;
- 23 (4) any injuries suffered or any danger or risk of injury to defendant or defendant's family  
24 resulting from any assistance provided by defendant; and
- 25 (5) the timeliness of any assistance provided by defendant.

26 It is understood that even if a motion for departure is made by the United States, based  
27 upon defendant's perceived substantial assistance, the final decision as to how much, if any,  
28 reduction in sentence is warranted because of that assistance rests solely with the District Court.

1 5(d) The government will recommend a fine within the Sentencing Guidelines range. If  
2 defendant is financially unable to immediately pay the fine in full, defendant agrees to make a  
3 full disclosure of his financial status to the United States Attorney's Office by completing a  
4 Financial Disclosure Form (OBD-500) for purposes of fixing a monthly payment schedule.  
5 Defendant understands that, by law, interest accrues on any remaining balance of the debt.

6 6. The defendant understands that to establish a violation of Drug User  
7 in Possession of Firearms as charged pursuant to 18 U.S.C. § 922(g)(3) and 924(a)(2) and 2, the  
8 government must prove each of the following elements beyond a reasonable doubt:

9 First: the defendant was an unlawful user of a controlled substance, that is,  
10 marijuana;

11 Second: the defendant knowingly received firearms, a Remington 12 gauge  
12 shotgun, Model 1100 Special, Serial Number P043287V; and Howa Model 1500  
13 .308 Caliber Rifle, Serial Number B017271, while he was an unlawful user of a  
14 controlled substance;

15 Third: the firearms, Remington 12 gauge shotgun, Model 1100 Special, Serial  
16 Number P043287V; and Howa Model 1500 .308 Caliber Rifle, Serial Number  
17 B017271, had been transported in interstate commerce at some time during or  
18 before defendant's receipt of it.

19 7. The defendant agrees that the Sentencing Guidelines apply to this offense. The  
20 defendant also understands that the facts he stipulates to herein will be used, pursuant to 1B1.2,  
21 in calculating the applicable guidelines level. The Government and the defendant stipulate to the  
22 following facts for purposes of the Sentencing Guidelines:

23 a. The defendant was born in 1977, and is a citizen of the United States.

24 b. If the defendant cooperates with the United States by providing information  
25 concerning the unlawful activities of others, the government agrees that any self-incriminating  
26 information so provided will not be used against defendant in assessing his punishment, and  
27 therefore, pursuant to § 1B1.8 of the sentencing guidelines, such information should not be used  
28 in determining the applicable guidelines range.

c. On or about November 15, 2007, in the District of Guam, an anonymous caller  
reported that the defendant Mike Snell, an employee of Guam Power Authority was cultivating

1 marijuana at his ranch in Yigo, Guam. Guam Police Department Officers arrived at the  
2 defendant's ranch and observed marijuana plants in plain view.

3 d. Search of the residence revealed two firearms, a Remington 12 gauge shotgun, Model  
4 1100 Special, Serial Number P043287V and a Howa Model 1500 .308 Caliber Rifle, Serial  
5 Number B017271 within the home.

6 e. On or about November 15, 2007, defendant MICHAEL SNELL, II, was an unlawful  
7 user of a Schedule I controlled substance, that is Marijuana. Defendant Michael Snell, II  
8 admitted that he smoked marijuana on November 14, 2007. While an unlawful user of a  
9 controlled substance, Defendant knowingly received and possessed the two firearms, a  
10 Remington 12 gauge shotgun, Model 1100 Special, Serial Number P043287V; and a Howa  
11 Model 1500 .308 Caliber Rifle, Serial Number B017271. Defendant stated that he received the  
12 Remington 12 gauge shotgun, Model 1100 Special, Serial Number P043287V; and Howa Model  
13 1500 .308 Caliber Rifle, Serial Number B017271 from his father, and the .308 from a friend.

14 f. The firearms, a Remington 12 gauge shotgun, Model 1100 Special, Serial Number  
15 P043287V; and the Howa Model 1500 .308 Caliber Rifle, Serial Number B017271 had been  
16 shipped in interstate or foreign commerce at some time during or before the defendant's  
17 possession of it.

18 g. The defendant understands that notwithstanding any agreement of the parties, the  
19 United States Probation Office will make an independent application of the Sentencing  
20 Guidelines. The defendant acknowledges that should there be discrepancies in the final  
21 sentencing guidelines range projected by his counsel or any other person, such discrepancy is not  
22 a basis to withdraw his guilty plea.

23 8. The defendant understands that this plea agreement depends on the fullness and  
24 truthfulness of his cooperation. Therefore, defendant understands and agrees that if he should  
25 fail to fulfill completely each and every one of his obligations under this plea agreement, or make  
26 material omissions or intentional misstatements or engage in criminal conduct after the entry of  
27 his plea agreement and before sentencing, the government will be free from its obligations under  
28

1 the plea agreement; thus defendant, in addition to standing guilty of the matters to which he has  
2 pled pursuant to this agreement, shall also be fully subject to criminal prosecution for other  
3 crimes and for the count which was to be dismissed. In any such prosecution, the prosecuting  
4 authorities, whether Federal, State, or Local, shall be free to use against him, without limitation,  
5 any and all information, in whatever form, that he has provided pursuant to this plea agreement  
6 or otherwise; defendant shall not assert any claim under the United States Constitution, any  
7 statute, Rule 11(f) of the Federal Rules of Criminal Procedure, Rule 410 of the Federal Rules of  
8 Evidence, or any other provision of law, to attempt to bar such use of the information.

9 9. Defendant understands that whether he has completely fulfilled all of the obligations  
10 under this agreement shall be determined by the court in an appropriate proceeding at which any  
11 disclosures and documents provided by defendant shall be admissible and at which the United  
12 States shall be required to establish any breach by a preponderance of the evidence. In  
13 determining whether there has been a breach, the parties agree that any polygraph results and the  
14 polygrapher's conclusions and opinions shall be admissible.

15 10. The defendant understands that his sentencing may be continued, at the discretion of  
16 the United States, until after the indictment and trial of any associates involved. This will also  
17 enable the Court to see the full degree of the defendant's cooperation. The defendant therefore  
18 waives any right he may have to any speedy sentencing and hereby agrees to any continuance of  
19 his sentencing date as it may become necessary.

20 11. In exchange for the government's concessions in this plea agreement, the defendant  
21 waives any right to appeal or to collaterally attack this conviction but reserves the right to appeal  
22 the sentence actually imposed in this case. The defendant understands and agrees that the  
23 government has bargained for a criminal conviction arising from his criminal conduct. If at any  
24 time defendant's guilty plea or conviction is rejected, withdrawn, vacated or reversed, for  
25 whatever reason, or is rendered invalid for any reason, or if any change of law renders the conduct  
26 for which he was convicted to be non-criminal, defendant agrees that he will enter a guilty plea to  
27 another charge encompassing the same or similar conduct. In such event, defendant waives any  
28

1 objections, motions or defenses based upon the Statute of Limitations, Speedy Trial Act, or  
2 constitutional restrictions as to the time of bringing such charges.

3 12. The defendant acknowledges that he has been advised of his rights as set forth below  
4 prior to entering into this plea agreement. Specifically, defendant has been fully advised of, has  
5 had sufficient opportunity to reflect upon, and understands the following:

6 a. The nature and elements of the charge and the mandatory minimum penalty provided  
7 by law, if any, and the maximum possible penalty provided by law;

8 b. His right to be represented by an attorney;

9 c. His right to plead not guilty and the right to be tried by a jury and at that trial, the  
10 right to be represented by counsel, the right to confront and cross-examine witnesses  
11 against him, and the right not to be compelled to incriminate himself, that is, the right not to  
12 testify;

13 d. That if he pleads guilty, there will not be a further trial of any kind on the charges to  
14 which such plea is entered so that by entering into this plea agreement, he waives, that is, gives  
15 up, the right to a trial;

16 e. Because this plea is entered pursuant to Federal Rule of Criminal Procedure  
17 11(c)(1)(B), the defendant understands that he may not withdraw his guilty plea even if the court  
18 does not accept the sentencing recommendation of the government or his counsel;

19 f. That, upon entry of a plea of guilty, or thereafter, the Court may ask him questions  
20 about the offenses to which he has pled, under oath, and that if he answers these questions  
21 under oath, on the record, his answers may later be used against him in prosecution for perjury or  
22 false statement if an answer is untrue;

23 g. That he agrees that the plea agreement is voluntary and not a result of any force,  
24 threats or promises apart from this plea agreement;

25 h. That he has read the plea agreement and understands it.

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27 //

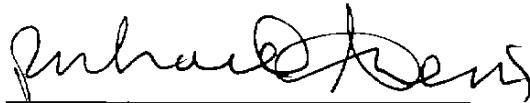


1 i. The defendant is satisfied with the representation of his lawyer and feels that his lawyer  
2 has done everything possible for his defense.

3  
4 DATED: 1-10-08

  
MICHAEL SNELL, II,  
Defendant

5  
6  
7 DATED: 1/10/08

  
RICHARD ARENS  
Attorney for Defendant

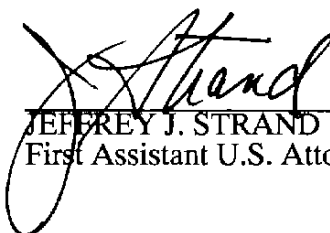
10 LEONARDO M. RAPADAS  
11 United States Attorney  
12 Districts of Guam and NMI

13 DATED: 1/11/08

By:

  
ROSETTA L. SANNICOLAS  
Assistant U.S. Attorney

16 DATED: 1/11/08

  
JEFFREY J. STRAND  
First Assistant U.S. Attorney